

HONORABLE SHARON L. GLEASON

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA**

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff, and

ERIC YANUSZ, AN INCOMPETENT  
ADULT, BY AND THROUGH HIS  
GUARDIANS LUANN AND RICHARD  
YANUSZ,

Plaintiff-Intervenor,

v.

THE SALVATION ARMY, INC.,

Defendant.

Case No. 3:16-cv-00240-SLG

[PROPOSED] CONSENT DECREE

**I. NON-ADMISSION OF LIABILITY AND NON-DETERMINATION BY THE COURT**

1. This Consent Decree is not an adjudication or finding on the merits of this case and shall not be construed as an admission by The Salvation Army of a violation of the Americans with Disabilities Act (“ADA”).

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## II. INTRODUCTION

2. This action originated when Eric Yanusz (“Charging Party”) filed a charge of discrimination with the Equal Employment Opportunity Commission (“EEOC” or “Commission”). Mr. Yanusz alleged that The Salvation Army, Inc. (“The Salvation Army” or “Defendant”) discriminated against him in violation of Title I of the Americans with Disabilities Act of 1990 and Title I of the Civil Rights Act of 1991 (“ADA”) when The Salvation Army failed to hire him because of his disability.

3. On January 14, 2016, the EEOC issued a Letter of Determination with a finding of reasonable cause to believe that The Salvation Army violated the ADA. Thereafter, EEOC attempted to conciliate the charge and conciliation was unsuccessful.

4. The Commission filed this lawsuit on October 17, 2016, in the United States District Court for the District of Alaska alleging that The Salvation Army discriminated against Mr. Yanusz when it failed to hire him because of his disability.

5. The EEOC and The Salvation Army enter into this Consent Decree to further the objectives of equal employment opportunity as set forth in the ADA and to conclude fully and finally all claims arising out of the EEOC’s Complaint and Mr. Yanusz’s charge of discrimination filed with EEOC.

## III. SETTLEMENT SCOPE

6. This Consent Decree is the final resolution of all allegations of unlawful employment practices contained in Mr. Yanusz’s discrimination charge, in the EEOC’s administrative determination, and in the EEOC Complaint filed herein, including all claims by the parties for attorney fees and costs. After the Consent Decree is entered, the parties will file a stipulation for dismissal with prejudice and without fees or costs.

7. The Salvation Army will not condition the receipt of monetary relief on Mr. Yanusz’s agreement to: (a) maintain as confidential the facts and/or allegations underlying his

1 charge and the complaint and the terms of this Decree; (b) waive his statutory right to file a  
2 charge with any governmental agency on any claims other than the claims that are released in  
3 this agreement; (c) refrain from reapplying for a job with The Salvation Army; or (d) agree to a  
4 non-disparagement and/or confidentiality agreement.

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6 **IV. MONETARY RELIEF**

7 8. The Salvation Army shall pay Mr. Yanusz fifty-five thousand dollars (\$55,000)  
8 within 45 calendar days of the parties executing this Consent Decree. This payment shall include  
9 specific amounts for backpay and compensatory damages. The Salvation Army shall make  
10 payment in accordance with an agreement to be reached between Plaintiff-Intervenor and The  
11 Salvation Army within 30 days of the parties executing this Consent Decree. The Salvation  
12 Army shall mail a copy of any checks made payable to Mr. Yanusz, together with an accounting  
13 of employee deductions and employer contributions made, to the following address at the same  
14 time that payment is made to Mr. Yanusz as described above:

15 May Che  
16 U.S. Equal Employment Opportunity Commission  
17 Seattle Field Office  
909 First Avenue, Suite 400  
Seattle, WA 98104

18 **V. INJUNCTIVE AND OTHER RELIEF**

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20 **A. General Provisions**

21 9. The Salvation Army's officers, managers, and supervisors of The Salvation  
22 Army's Adult Rehabilitation Centers in Anchorage and the Mat-Su Valley, and all human  
23 resources personnel who provide advice or guidance to the aforementioned individuals, and its  
24 successors and assigns shall not engage in practices which unlawfully discriminate against  
25 applicants and/or employees on the basis of disability or in retaliation for engaging in protected

1 activity. In recognition of its obligations under the ADA, The Salvation Army shall institute the  
2 policies and practices set forth below.

3 10. The Salvation Army will provide prior written notice to any potential purchaser of  
4 The Salvation Army's businesses, and to any other potential successor, of the EEOC's lawsuit,  
5 the allegations raised in the EEOC's complaint, and the existence and contents of this Consent  
6 Decree. In recognition of its obligations under the ADA, The Salvation Army shall institute the  
7 policies and practices set forth below.  
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9 **B. Anti-Discrimination Policies and Procedures**

10 11. From the date that the anti-discrimination policy is finalized as set forth in this  
11 paragraph, The Salvation Army's Adult Rehabilitation Centers within the Western Territory  
12 ("The Salvation Army Western Territory ARCs") shall have an anti-discrimination policy that  
13 prohibits discrimination, explains to employees their rights and responsibilities under EEO laws,  
14 and is subject to periodic updating to reflect changes in anti-discrimination laws. The policy will  
15 state that it is promulgated at the direction of and with the endorsement by the highest level of  
16 Salvation Army management. These policies shall be provided to the EEOC for review and  
17 comment no later than thirty (30) days prior to implementation. Within fourteen (14) days of  
18 receipt, the EEOC will advise The Salvation Army of any comments. EEOC agrees to review  
19 the proposed policies and procedures in good faith.

20 12. The Salvation Army will provide an anti-discrimination policy for use by all of  
21 The Salvation Army Western Territory ARCs that will contain specific provisions relating to the  
22 Americans With Disabilities Act, as amended, with special emphasis on the ADA's interviewing  
23 and hiring obligations, and include (a) an express description of how its officers, agents,  
24 managers, supervisors, hiring officials, and human resource personnel must carry out hiring  
25 procedures with regard to an applicant for employment who is disabled, is "regarded as"

1 disabled, who has a record of disability, or who expresses a need for reasonable accommodation;  
2 (b) an express description of how an applicant with a physical or mental impairment may request  
3 assistance with an application or seek a reasonable accommodation pending the processing of an  
4 application; (c) an obligation to educate its officers, agents, managers, supervisors, hiring  
5 officials, and human resource personnel on how to respond to such requests as set forth in the  
6 Consent Decree; and (d) an express statement that The Salvation Army, including its contractors,  
7 will ensure that applicants for employment are individually assessed based upon their current  
8 capabilities at the time of their application, to perform the essential functions of the job with or  
9 without accommodation, and will not be excluded based solely on a disability, record of  
10 disability, or a perceived disability.

11 13. The Salvation Army Western Territory ARCs' anti-discrimination policy will  
12 include a complaint procedure for employees and applicants to ensure convenient access to  
13 points of contact for reporting and require a timely response by the company. The procedures  
14 shall: 1) identify multiple points of contact through which employees and applicants can lodge  
15 complaints, including phone numbers and addresses for those points of contact; 2) allow  
16 complaints to be submitted verbally in the primary language of the employee, without need of  
17 submission of a written statement; 3) provide a method for documenting verbal complaints by  
18 management; 4) explain that The Salvation Army will conduct a prompt and thorough  
19 investigation after a complaint is made or received and, where appropriate, will take remedial  
20 action upon conclusion of an investigation; and (5) indicate that, promptly upon the conclusion  
21 of the investigation of a complaint, The Salvation Army will communicate to the complaining  
22 party the results of the investigation and at least a general description of the remedial actions  
23 taken or proposed, if any.

24 14. Not later than sixty (60) days after entry of this Consent Decree, The Salvation  
25 Army Western Territory ARCs' shall distribute a written copy of its anti-Discrimination policies  
to all its employees, both management and non-management. These policies will also be

1 distributed to every employee hired or re-hired during the three year duration of this decree and  
2 with all applications for employment, and will also be posted on-line for review by any person  
3 applying for a job. All physical job applications will include reference to the policy available  
4 on-line.

5 15. Policy Modifications. If The Salvation Army modifies any of the policies listed  
6 above in the next three years, it shall submit to the EEOC for its review and consideration the  
7 proposed modifications no later than thirty (30) days before adoption. Within fourteen (14) days  
8 of receipt, the EEOC will advise The Salvation Army of any comments. EEOC agrees to review  
9 the proposed modifications in good faith.

10 C. Equal Employment Opportunity Training  
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12 16. For the next three years, from entry of this Consent Decree, The Salvation  
13 Army Western Territory ARCs shall provide annually a two-hour EEO training seminar to all its  
14 corps officers and human resources personnel in Anchorage and the Mat-Su Valley and all  
15 human resources personnel who provide advice or guidance to the aforementioned individuals.  
16 Managers and supervisors in Anchorage and the Mat-Su Valley will be given copies of the  
17 written training materials, and will be instructed to contact human resource personnel in  
18 Anchorage or at Territorial Headquarters with any ADA issues. This anti-discrimination training  
19 shall include, at a minimum, an overview of the ADA with special emphasis on hiring  
20 procedures, responding to requests for reasonable accommodation, including use of job coaches,  
21 and The Salvation Army's EEO policies relating to the ADA and hiring procedures. Training  
22 materials must be submitted to the EEOC no later than 30 days after the training session. The  
23 costs of training shall be borne by The Salvation Army.

24 17. Not later than ninety (90) days after the entry of the Consent Decree, The  
25 Salvation Army shall provide the EEO training noted in Paragraph 16.

1           18.     For the training conducted annually through 2020, the Salvation Army shall notify  
2 the EEOC of the completion of the training seminars within 30 days of their being held and shall  
3 specify the names and job titles of the individuals who participated in and completed the training.

4     D.     Non-Disclosure of Information

5           19.     The Salvation Army shall not disclose any information or make reference to any  
6 charge of discrimination or this lawsuit in responding to requests for information about Mr.  
7 Yanusz from potential employers of Mr. Yanusz.  
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9     E.     Policies Designed to Promote Accountability

10          20.     The Salvation Army Western Territory ARCs shall specifically advise all  
11 managers and supervisors, hiring officials, and human resources personnel at all its facilities in  
12 Alaska and all human resources personnel who provide advice or guidance to the aforementioned  
13 individuals of their duty to ensure compliance with its EEO anti-discrimination policies when it  
14 provides them with a copy of the policies described above. The Salvation Army Western  
15 Territory ARCs agree that it shall impose discipline, up to and including termination of  
16 employment, upon any supervisor, manager, hiring official, or human resources personnel, who  
17 it determines discriminates against any applicant and/or employee on the basis of disability, or  
18 who it determines retaliates against any person who complains about or participates in any  
19 investigation or proceeding concerning any allegation of discrimination.

20          21.     In conducting performance reviews, The Salvation Army Western Territory ARCs  
21 shall include EEO enforcement and compliance as standards for managers, supervisors, hiring  
22 officials, and human resources personnel when such issues and/or complaints have occurred.  
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24     F.     Reporting

25          22.     The Salvation Army shall agree to report to the EEOC in 2018 and in 2020 with a  
certification that The Salvation Army Western Territory ARCshave:

1. Continued to maintain its written EEO policies and procedures and distributed copies of its EEO policy as described in Paragraphs 11-15;
  2. Complied with the training provisions enumerated in this Consent Decree, as provided in Paragraphs 16-18 and provide a list of all attendees, with job titles, for each training completed; and
  3. Continued to promote accountability by managers, supervisors, hiring officials, and human resources personnel as required by Paragraphs 20-21; and
  4. Complied with all other provisions of this Consent Decree.
- b. Copies of the following documents shall be included with each biennial report submitted to the Seattle Field Office of the EEOC:
1. A copy of The Salvation Army Western Territory ARCs' EEO policy and procedures maintained in accordance with the provisions of this Consent Decree;
  2. A copy of its current EEO policy and a list of any changes, modifications or revisions to its EEO policies and procedures, if any, which concern or affect the subject of discrimination or retaliation;
  3. A summary of internal formal or informal disability discrimination or disability retaliation complaints, if any, filed by employees or applicants, identified by name, the actions taken by the company and the resolution of each such complaint;
  4. A sign-in sheet or list of the names and job titles of The Salvation Army personnel who completed EEO training as required by this Consent Decree and the dates the training was conducted during the reporting period.

23. If applicable, The Salvation Army shall submit a statement with its report to the EEOC specifying the areas of noncompliance, the reason for the noncompliance, and the steps that shall be taken to bring The Salvation Army into compliance.

G. Posting

24. The Salvation Army Western Territory ARCs' shall post a Notice to All Employees. This Notice is attached as Exhibit 1 to this Consent Decree. The Notice shall be



1 conspicuously posted on bulletin board at all The Salvation Army Adult Rehabilitation Center  
2 facilities within the Western Territory for the next three years.

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4 VI. ENFORCEMENT

5 25. If the EEOC determines that The Salvation Army has not complied with the terms  
6 of this Consent Decree, the EEOC shall provide written notification of the alleged breach to The  
7 Salvation Army. The EEOC shall not petition the Court for enforcement of this Consent Decree  
8 for at least thirty (30) days after providing written notification of the alleged breach. The 30-day  
9 period following the written notice shall be used by the EEOC and The Salvation Army for good  
10 faith efforts to resolve the dispute.

11 VII. RETENTION OF JURISDICTION

12 27. The United States District Court for the District of Alaska shall retain jurisdiction  
13 over this matter for the duration of this Consent Decree for purposes of enforcing the Consent  
14 Decree terms.

15 VIII. DURATION AND TERMINATION

16 28. This Consent Decree shall be in effect for three (3) years from the date of entry of  
17 the Decree.

18 Dated this 20th day of MARCH, 2018.

19  
20 EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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17 Attorneys for Defendant The Salvation Army

**CERTIFICATE OF SERVICE**

I hereby certify that on March 26, 2018, I electronically filed the foregoing document titled “[**Proposed**] **Consent Decree**” with the Clerk of the Court using the CMF/ECF system, which will send notice of such filing to the following individuals listed below:

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DATED this 26th day of March, 2018.

/s/May Che  
EEOC Senior Trial Attorney

**Certificate of Service**  
**3:16-cv-00240-SLG**

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